

COMMISSIONERS PROCEEDINGS
MAY 11, 2004
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stanton, Pridemore, and Morris, Chair, present.

PROCLAMATION

Commissioner Stanton read a proclamation announcing May 16-22, 2004, Public Works Week in Clark County, Washington. Pete Capell, Director of Public Works, accepted the proclamation.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Stanton to approve items 1 through 9. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 92)

PUBLIC HEARING: CDBG/HOME ACTION PLAN

Held a public hearing to receive citizens' comments on the proposed changes to Clark County/City of Vancouver Consolidated Plan and Community Development Plan 2000-2004.

Pete Munroe, Department of Community Services, said this was an opportunity to receive public input on the proposed 2004 Clark County proposed CDBG projects and the 2004 Clark County-Vancouver Home Consortium proposed projects. Munroe explained that the one-year action plan had been distributed to public libraries in Clark County and posted on the DCS website. The plan was also published in *The Columbian* on April 12, and comments would be received until 5 p.m. on May 12, 2004. He said the CDBG funds available this year are approximately \$1.5 million, including \$209,000 of re-program funds and approximately \$166,000 in anticipated program income. Munroe outlined the selected projects and anticipated available funding.

Stanton wanted to know if there were any revisions to the objectives or overall policies.

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Munroe responded that they were currently going through that process and would potentially have new goals and objectives by the fall of this year. He said they would have a public process most likely in August.

There was no public comment.

No action was necessary on this matter.

PUBLIC HEARING: EMERGENCY ORDINANCE PERTAINING TO EVERGREEN SCHOOL DISTRICT

Held a public hearing to consider confirming and extending Emergency Resolution 2004-03-18, which authorizes the processing of a conditional use permit and site plan for a new high school on property located at 19702 SE First Street, Camas, in anticipation of a future comprehensive plan redesignation and rezone.

Pat Lee, Long Range Planning Manager, Department of Community Development, presented. Lee noted that there was one revision to the staff report to the comprehensive plan hearing schedule (page 2) that reflects more specifically scheduled hearing dates. He said they were hoping to provide the board with a status report on the capital facilities work, which would give them a better indication of what the missing information is. He said they may also urge the board to contact elected officials in certain jurisdictions, as well as service providers, in order to encourage them to have their staff submit the information that hasn't yet been seen.

Morris said it would be helpful if Mr. Lee would let the board know who they need to call so that they could do so in the next couple of days.

Lee said they are putting together a spreadsheet that identifies all the missing pieces from service providers, the biggest of which is Battle Ground.

Morris indicated that she would call the Mayor [of Battle Ground].

Lee moved onto the issue of the emergency ordinance pertaining to the Evergreen School District, and allowing Community Development to process a conditional use permit even though the existing zoning is agriculture and would not allow the location of a new high school. However, he said it is a site that in most of the alternatives, including the January 14 alternative that the board had identified, is suggested for inclusion in the urban growth boundary. He said this would allow them to go ahead and process the application before a final decision, recognizing that if the school district chooses to do that they would be doing so at their own risk. It would get the process underway because they're trying to meet a September 2006 opening date for the new school. Lee explained that the purpose of today's hearing had to do

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with the fact that the resolution had been adopted on an emergency basis, and it's necessary to hold a public hearing in order to receive public comment prior to extending it within 60 days.

Morris opened the hearing for public comment.

Carra Sahler, Attorney, Preston Gates & Ellis, 222 SW Columbia Street, indicated that she didn't have a formal statement, but thanked the board.

Morris closed public testimony.

MOVED by Pridemore to approve Resolution 2004-05-08. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 92)

PUBLIC MEETING: PLD2003-00038; PUD2003-00003; SEP2003-00075; ARC2003-00017; WET2003-00018; HAB2003-00277 – HANSEN MEADOW'S SUBDIVISION

Held a public meeting to consider an appeal of the Clark County Land Use Hearings examiner's decision regarding an application by Moss & Associates for a preliminary plat and associated reviews for a 78-lot subdivision and planned unit development on a 13-acre site at 14318 NE 10th Avenue.

Morris stated that one of the requests from the appellant had been to present new evidence; however, she explained that the board is not able to accept new evidence or testimony. She said they make their decision based on what is in the record.

Commissioners Morris and Pridemore certified reading the relevant parts of the record. Stanton certified reading the record, except for the stormwater plan and wetland study.

Morris commented that in order for the board to overturn a hearings examiner, they must find error – either there isn't substantial documentation in the record for him to have come to his conclusion or there was error in the material. She said they are not allowed to overturn a hearings examiner as long as there is sufficient evidence in the record to justify his decision.

Stanton noted that the letter of appeal didn't specifically request the board to overturn the hearings examiner. She said there were some comments about making sure the conditions are enforced and, if appropriate, making any changes to the conditions and that it be done in a public manner. Stanton suggested going through the appeal step-by-step, starting with the first issue regarding the adequacy of the roads in the immediate area and whether they have been reasonably funded within the three-year period. She said in looking at the record, there are improvements planned within the three years. She said they did have a moratorium in place and

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allocated a certain number of trips to be consumed by the residential sector, as well as the job-producing land uses. She said this one appears to fall within that trip allocation.

Pridemore said staff conducted a review of that particular standard and declared it to be within the three-year construction period and that it will meet concurrency standards. He said there's nothing else in the record to suggest that the project would not comply with concurrency standards.

Morris stated that when there's a specific idea, such as something not being funded, it's important to note in an appeal where the opinion is supported or documented. Staff had pointed out that it's in the Transportation Improvement Program. *Morris* said she thought that while the staff report stated that it's not reasonably funded at this time, it is expected to be built. She asked if that was correct.

Pridemore said he recalled that it wasn't even an issue of a project being built – that this project was fine anyway.

Morris moved onto issue #2 regarding the cul-de-sac on NE 5th Court. She said that according to their standards, there is plenty of capacity for the three lots to use the cul-de-sac for access.

Stanton agreed that it falls within their standards.

Morris moved onto issue #3 concerning enforcement of the conditions of approval. She said it's really a statement of a reinforcement that they intend to enforce the conditions of approval, which they certainly do. She said that if the applicant were to try and change the conditions of approval, there would be significant opportunity for public process along the way. She added that they intend for staff to enforce the conditions of approval – that's why they are written. *Morris* then moved onto issue #4 regarding average lot sizes. She stated that in this particular instance, the number and size of lots allowed in this subdivision are in compliance with county code.

Pridemore said this clearly falls within the range that's permitted by the PUD, and he could find nothing in the record to justify overturning that decision.

Stanton asked about a post-decision process regarding lot sizes that would change the hearings examiner's condition that the lot sizes shall be at least 4,800 sq.-ft. What would be the process to change that?

Rich Lowry, Prosecuting Attorney's Office, responded that any change would require a post-decision review. In order to process as a Type I - the type that doesn't involve public notice - you have to find that the impacts have been decreased as a result of the change. He said that

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wouldn't be an option if lot sizes were decreasing. At a minimum, it would be a type II and it could be classified as a Type III, which would mean that it would have to go back to a full public hearing.

Stanton said that in a follow-up communication to the appeal letter, the applicant had stated that the lot sizes are fixed. She noted that any change in those lot sizes would involve a public process.

Lowry said that was correct.

Morris commented on the issue of attached housing. The application was for single-family and the hearings examiner makes an assumption that they might at some point in time. She said that someone may have indicated that it could be a possibility; however, she didn't see it anywhere in the record.

Terri Brooks, Department of Community Development, said there was no mention of it at the hearing or in any of the correspondence.

Stanton referenced issue #5 regarding a six-foot fence and whether it was tall enough to obscure the buildings. She said the request was to require an eight-foot fence, but she didn't see any evidence in the record to prove that an eight-foot fence would be more appropriate.

Pridemore thought a six-foot fence was adequate.

Morris moved onto issue #6 regarding the appellant's assertion that the traffic study was inadequate and didn't address the impacts of the Amphitheater and what it might have on 10th Avenue. She said staff's opinion is that the study did address the issues, was adequate, and met requirements.

Stanton said any impact from the Amphitheater is something that needs to be considered on the part of the Amphitheater proposal, not on this case. She noted that the traffic study had been done by professional, licensed engineers. There is no other expert testimony or professional studies that refute or demonstrate that the traffic study is inadequate.

Morris moved onto issue #7, regarding bicycle traffic.

Stanton agreed with the appellant in that the timing of the count of pedestrians and bicyclists had not been done during a high-volume time. She also agreed that it didn't include the one fatality. She said other than that, it's not enough to provide the evidence that's required to overturn the hearings examiner on the basis of an inadequate study.

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Pridemore agreed.

Morris moved onto issue #8, again regarding pedestrian safety, and said she thought that many of the former issues still applied to this one.

Stanton said there was a question concerning what one has to do in order to be credible in front of the hearings examiner. She said in her opinion it was the responsibility of the person testifying to provide that credibility. *Stanton* said there were instances in which their wetlands and habitat biologist had provided adequate evidence of their qualifications to speak, which was refreshing.

Lowry said they would be seeing that on a more consistent basis from now on and in order to avoid taking up a lot of time verbally providing credentials, the intent was to put them in writing.

Stanton said that would be helpful.

The board moved onto issue #9, again regarding a safety issue.

Stanton said she didn't disagree with the appellants, but that they have a lot of similar situations in Clark County and one of the ways that they pay for sidewalks is to require the adjacent land to develop sidewalks when the land develops.

Morris said that's the only way the sidewalks get built. The sidewalks aren't built until the houses and people come.

Pridemore noted that within the immediate frontage of the site, the safety would be much improved because of certain things the developer was going to do. However, he said that as people leave the new development to go offsite to do shopping, for example, it is putting more people at risk, which is a concern. *Pridemore* asked about something being done during the construction phase so that it's as safe as possible.

Lowry said that issue can be addressed through the construction planning that occurs and that a note could probably be included in the file to emphasize that it is a board concern.

Pridemore asked *Lowry* about the liability for those types of things.

Lowry said if the developer creates an ultra-hazardous condition, then the developer clearly has primary liability.

Pridemore asked if it were true that 10th Avenue was going to become a four-lane road.

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Brooks stated that it wasn't going to be four lanes.

Pridemore suggested it would be very important to add a note to the file in this particular matter, because people drive fast on that narrow road. He said that apart from that concern, he didn't see cause to overturn the hearings examiner.

Morris and Stanton agreed.

MOVED by *Pridemore* to uphold the hearings examiner's decision on the matter of Hansen Meadow's Planned Unit Development. Commissioners *Morris*, *Stanton*, and *Pridemore* voted aye. Motion carried. (See Tape 92)

Henry Rolfs, Interim President of the North Salmon Creek Neighborhood Association, stated that there is a large group of people who aren't happy and feel their voice isn't being heard.

Stanton explained that the time to get involved is when they're doing the comprehensive land use planning.

Morris suggested that Mr. Rolfs spend some time with neighborhood leadership, who has been active in these issues for years. She noted that people really don't say anything until something is developing next door to them. She further explained. She encouraged Mr. Rolfs to hold a neighborhood meeting and invite staff from the Department of Community Development.

Rolfs stated that he isn't against development, nor is anyone in his area who he has talked with. However, they do have a problem with safety issues.

Pridemore commented that he doesn't like doing land use appeals and has made it clear that he would like for the Board of County Commissioners to get out. He explained that the board takes the record they are given and applies it against the existing laws. *Pridemore* said these appeals confuse citizens about what the board's role and abilities are exactly. He further explained. He added that Mr. Rolfs letter was actually very well done.

The Board of County Commissioners' adjourned and convened as the Board of Health.

PUBLIC COMMENT

There was no public comment.

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CONSENT AGENDA

There being no public comment, **MOVED** by Pridemore to approve consent agenda items 1 through 4. Members Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 92)

Adjourned

2 p.m. Bid Openings

Present at the Bid Opening: Louise Richards, Clerk to the Board; Mike Westerman and Allyson Anderson, General Services

BID OPENING 2365

Held a public hearing for Bid Opening 2365 – Canyon Creek Generator for CRESA. Mike Westerman, General Services, opened and read bids and stated that it was their intention to award Bid 2365 on May 18, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 92)

BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/
Betty Sue Morris, Chair

Judie Stanton/s/
Judie Stanton, Commissioner

Craig A. Pridemore, Commissioner

ATTEST:

Louise Richards/s/

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Clerk of the Board
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